IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

MFA.No. 1255 OF 2002()

OPMV.702/1999 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM

APPELLANT: PETITIONER:

JAYAN, S/O. LATE KESAVAN NAIR,
RESIDING AT PANEKKATT HOUSE, KANDANAKAM,
P.O. KALADY, MALAPPURAM DISTRICT.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON

RESPONDENTS: RESPONDENTS:
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1. K.RAMAN NAIR,
RESIDING AT VIJAYA MANDIRAM, KOOTANAD P.O.

2. MANIKANDAN, S/O. GOPALAKRISHNAN,
RESIDING AT KAVINGAL HOUSE, MALA P.O.,
CHALISSERY.

3. UNITED INDIA INSURANCE COMPANY LIMITED,
OTTAPALAM.

R3 BY ADV. SRI.MATHEWS JACOB

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 27.2.2007, THE COURT ON THE SAME DAY, DELIVERED THE FOLLOWING:

P.R. RAMAN &
ANTONY DOMINIC, JJ.
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M.F.A. NO. 1255/2002

J U D G M E N T

27TH FEBRUARY, 2007.

P.R. RAMAN & ANTONY DOMINIC, JJ.

M.F.A. NO. 1255 OF 2002

DATED THIS, THE 27TH DAY OF FEBRUARY, 2007.

J U D G M E N T

Antony Dominic, J.

A nineteen year old boy, standing on the side of a public road, was hit by a lorry and was seriously injured. He filed an application for compensation before the Motor Accidents Claims Tribunal, supported by a medical certificate, certifying 20% permanent disability. Though the Doctor was examined, the tribunal took the disability at 12% and on that basis compensation towards permanent disability was quantified and he was granted Rs. 35,000/-. Under various other heads also compensation was given and the total amount awarded was only Rs. 98,000/-.

2. The counsel for the appellant argued on various points, but we are confining ourselves to the compensation granted towards permanent disability and loss of amenities and according to us compensation granted in respect of other heads do not call for any interference. Though the medical certificate certifies the permanent disability at 20%, without assigning any reason, even in spite of the medical evidence tendered, only 12% was

taken by the tribunal. In our view, in the absence of any contra evidence, disability as certified by the doctor ought to have been accepted and compensation awarded on that basis. We therefore, modify the compensation awarded towards permanent disability taking 20% as the disability and applying the same standard, award an additional compensation of Rs.26,446/- towards permanent disability.

3. We also notice that towards loss of amenities against a claim of Rs. 25,000/-, only Rs. 3,000/- was awarded, which is too low. Taking into account the circumstances of the case and the evidence adduced, we award an additional amount of Rs. 5,000/- towards this item as well.

4. Thus we award an amount of Rs. 31,446/- towards compensation in addition to what is awarded by the Tribunal. The additional amount awarded will also carry interest at the rate of 7% from the date of petition till date of realization.

The award will stand modified to that extent. Appeal is allowed. No costs.

P.R. RAMAN,
(JUDGE)

ANTONY DOMINIC,
(JUDGE)

knc/-